

Honolulu, Hawaii

FEB 12 2014

RE: S.B. No. 2923

S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2923 entitled:

"A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION MEDICAL
FEE SCHEDULE,"

begs leave to report as follows:

The purpose and intent of this measure is to implement the
recommendations of Auditor's Report No. 13-10 by:

- (1) Requiring the Director of Labor and Industrial Relations to update the workers' compensation medical fee schedule annually;
- (2) Authorizing the Director of Labor and Industrial Relations to establish a maximum allowable fee ceiling that is higher than one hundred ten percent of fees prescribed in the Medicare Resource Based Relative Value Scale (Medicare fee schedule) applicable for Hawaii;
- (3) Appropriating an unspecified amount for fiscal year 2014-2015 for two full-time equivalent positions for the Department of Labor and Industrial Relations;
- (4) Appropriating an unspecified amount for fiscal year 2014-2015 for the Department of Labor and Industrial Relations to contract for the performance of an analysis of the impact this measure will have on workers'



compensation claimants' access to appropriate treatment;
and

(5) Establishing a sunset date of June 30, 2019.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations; Office of the Auditor; Hawaii Medical Association; International Longshore and Warehouse Union, Local 142; Work Injury Medical Association of Hawaii; Rainbow Family 808; and one individual. Testimony in opposition to this measure was submitted by the Hawaii Insurers Council, The Chamber of Commerce of Hawaii, and Property Casualty Insurers Association of America. Your Committee received comments on this measure from the Department of Human Resources Development; Department of Human Resources, City and County of Honolulu; and one individual.

Your Committee finds that the liability of an employer for medical care, services, and supplies is limited to charges up to one hundred ten percent of the federal Medicare fee schedule applicable to Hawaii. The Director of Labor and Industrial Relations uses the Medicare fee schedule to determine the charges for medical care and services in workers' compensation claims and is required to update the fee schedules at least once every three years. This fee adjustment has resulted in fewer and fewer physicians choosing to treat injured workers, especially on the neighbor islands.

Your Committee further finds that Act 97, Session Laws of Hawaii 2013, requested the Auditor to assist the Department of Labor and Industrial Relations to create a methodology to administratively adjust the State's workers' compensation medical fee schedule. The purpose of this methodology is to identify health care services for which fee adjustments are needed and provide injured employees with better access to treatment.

As a result, the Auditor made several recommendations under Auditor's Report No. 13-10 for the Department of Labor and Industrial Relations, including the adoption of a methodology that collects and analyzes transacted current procedural terminology code data and the establishment of a second maximum allowable fee ceiling that would only be applicable to Evaluation and Management (E/M) medical services that have been identified by stakeholders as applicable to workers' compensation cases. Furthermore, the Auditor proposed several actions for consideration by the



Legislature, including empowering the Director of Labor and Industrial Relations to establish a maximum allowable fee ceiling for eligible E/M codes. This measure implements the recommendations made by the Auditor.

Your Committee notes that the Auditor clarified that the unspecified appropriation requested in this measure for the performance of an analysis of impact of this measure is intended to provide replacement funds if the funds previously appropriated under Act 97, Session Laws of Hawaii 2013, lapse prior to the effective date of this measure.

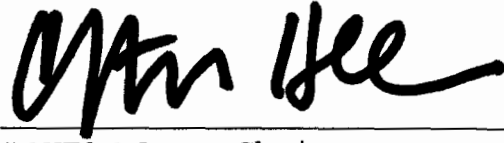
Accordingly, your Committee has amended this measure by:

- (1) Adopting the language suggested by the Auditor in response to the comments from the Department of Human Resources of the City and County of Honolulu, which moves the language authorizing the Director of Labor and Industrial Relations to establish a maximum allowable fee ceiling that is higher than one hundred ten percent of fees prescribed in the Medicare fee schedule to a more appropriate part of section 386-21(c), Hawaii Revised Statutes;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (3) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2923, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2923, S.D. 1, and be referred to the Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,


A handwritten signature in black ink, appearing to read "Clayton Hee", written over a horizontal line.

CLAYTON HEE, Chair



The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 2923</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">JDL, WAM</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/7/14</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
GALUTERIA, Brickwood	✓			
IHARA, Jr., Les	✓			
SOLOMON, Malama	✓			
SLOM, Sam				✓
TOTAL	6			1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; margin-left: 50px;">  </div>				
Distribution: <div style="display: flex; justify-content: space-between; font-size: 0.8em; margin-top: 5px;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes